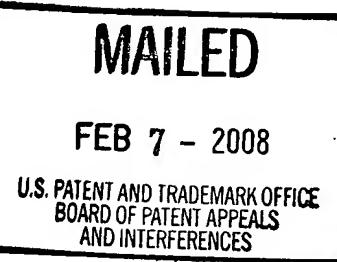


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID LEE

Application No. 10/730,758



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on January 24, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

A Reply Brief was filed on October 13, 2006 in response to the Examiner's Answer mailed August 16, 2006. However, in accordance with the revision effective September 13, 2004, 37 CFR § 41.43 states:

... After receipt of a reply brief in compliance with [37 CFR] § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief

A review of the application indicates that the reply brief has not been considered by the examiner. Correction is required.

In addition, on December 8, 2006, an Examiner's Answer was entered to the record. The examiner stated that "This is in response to the appeal brief filed 6/20/06 appealing from the Office action mailed 10/13/05". However, a review of the file reveals that the Appeal Brief was filed on October 12, 2006. Clarification of the Appeal Brief filing date is required.

Accordingly, it is

ORDERED that the application is returned to the examiner:

- 1) for consideration of the reply brief filed October 13, 2006;
- 2) for written acknowledgment of entry of reply brief to the appellant;
- 3) to clarify the Appeal Brief filing date; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: *Patrick J. Nolan*
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Application No. 10/730,758

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